

**DEPARTMENT OF STATE REVENUE  
LETTER OF FINDINGS NUMBER: 03-0106P  
Use Tax  
For Calendar Years 1999, 2000, and 2001**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. **Tax Administration** – Interest

**Authority:** IC 6-8.1-10-1

Taxpayer protests the interest assessed.

**STATEMENT OF FACTS**

Upon audit, Taxpayer was assessed a penalty for failing to self assess use tax on distributed samples and display merchandise which was an issue in the prior audit. The audit determined that the taxpayer did not begin accruing and remitting use tax on display materials placed into service in Indiana until more than one year after the prior audit was completed. The assessment amounted to 46%, 25%, and 0% of use tax due for calendar years 1999, 2000, and 2001.

Taxpayer, in a letter dated February 25, 2003 requests that the department waive the penalty and interest because the total underpayment was due to an administrative error resulting in less than 1% of the total samples reported during 1999 and taxpayer did not begin reporting use tax on displays until the fourth quarter of 1999 due to reporting difficulties.

I. **Tax Administration** – Penalty

**DISCUSSION**

Taxpayer was assessed a ten percent (10%) penalty because it failed to report its use tax due on samples and display materials used in Indiana.

Taxpayer states that the underpayment of samples was an administrative error and it did not begin reporting the use tax on displays until the fourth quarter in 1999 because of reporting difficulties. Taxpayer further states that since 1999, all payments were complete and accurate and all returns were filed and paid timely.

Department records indicate the taxpayer was previously audited and failed to make the corrections timely. The prior audit was completed on September 24, 1997.

Taxpayer has not provided reasonable cause to allow the penalty to be waived.

**FINDING**

Taxpayer's protest is denied.

II. **Tax Administration** – Interest

**DISCUSSION**

Taxpayer protests the interest assessed.

**FINDING**

The Department has no authority to waive interest.